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DEC 05 1990

Docket No. 50-333

New York Power Authority
James A. FitzPatrick Nuclear Power Plant
ATTN: Mr. William Fernandez
Resident Manager
P. O. Box 41
Lycoming, New York 13093

Gentlemen:

Subject: Response to Notices of Violation Identified in Inspection Report
Nos. 50-333/89-80 and 50-333/90-13

This letter refers to your letters, dated September 21, 1989, and May 14, 1990, in response to the Notices of Violation (NOV) identified in NRC Inspection Reports 50-333/89-80 and 50-333/90-13, respectively. Inspection Report 89-80 documented the results of an NRC Safety System Functional Inspection (SSFI) conducted in May 1989. Inspection Report 90-13 documented the results of an NRC inspection conducted in February 1990. We have reviewed your responses and our conclusions are stated below.

A. Your September 1989 letter disagreed with two of the violations in Inspection Report 50-333/89-80.

1.0 Violation 50-333/89-80-01 pertained to the susceptibility of the reactor building closed cooling water system to high energy line breaks. This system provides cooling water to two non-safety related components; drywell coolers and recirculation pump motor coolers. The piping to these loads was not protected against the effects of a high energy line break. A potential break could provide a leakage path to the reactor building and the lake.

As noted in NRC inspection report 50-333/90-13, NYPA performed an engineering review of the RBCCW installation and concluded that the piping could withstand a high energy line break provided three (3) piping supports are stiffened to withstand seismic forces under elevated temperatures. This modification was scheduled for completion during the 1990 refueling outage. You disagreed with the violation concluding that the basis for the violation is new requirements that go beyond the requirements and beyond the original FitzPatrick design basis. You further stated that the violation is based on draft versions of the General Design Criteria that were not part of the facility design basis.

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The NRC staff has reviewed your response to the Notice of Violation and concludes that considering the original design basis of the FitzPatrick facility, the Notice of Violation is inappropriate. Accordingly, this violation is withdrawn.

- 2.0 Violation 50-333/89-80-02 identified examples of inadequate procedures in that they did not provide sufficient instructions appropriate to the circumstances. The contested parts of the violations are restated below.

10 CFR 50, Appendix B, Criterion V, requires that activities affecting quality shall be prescribed by procedures appropriate to the circumstances.

Contrary to the above:

(2.1) On May 22, 1989 the Emergency Diesel Generator Day tank level calibration procedure F-IMP-93.6 Revision 2, dated October 2, 1985 and entitled Fuel Oil Day Tank Level Functional Test did not address the calibration of the level switches to a standard.

(2.2) On May 22, 1989 procedure No. F-OP-22, Revision 16, dated December 12, 1988, Diesel Generator Emergency Power, was not prescribed by procedures appropriate to the circumstance in that instructions for the connecting of the back up air bank did not address the isolation of the defective bank of starting air.

(2.4) Annunciator Procedure ARP-09-8-4-11, Revision 2, EDG B engine trouble or shutdown and ARP-09-8-4-4 Revision 1, EDG B fuel tank level or transfer pump switch off normal procedures were not prescribed by appropriate procedures in that no specific directions were given to the operator to respond to the abnormality.

(2.1) Part 2.1 of this violation pertained to the inappropriate calibration of the Diesel Generator Day Tank Level Switches. Procedure F-IMP-93.6, Revision 2, did not relate the switch actuation to a known level in the tank. This practice creates the potential for not meeting the Technical Specification Bases of 3 hours rated load capability from the day tank. You disagreed with the violation stating that the subject procedure was based on the equipment manufacturer recommendations which did not include the use of a standard. Therefore, the subject procedure did not include this requirement.

The NRC staff disagrees with this view in that it is a fundamental instrument calibration practice to perform calibration against a standard or a traceably accurate reference such as a sight glass or a dipstick. In the absence of such a reference, the accuracy of the calibrated device is indeterminate. As noted in ANSI N18.7-1972 Section 5.1.6, "Maintenance," which NYPA is required to meet in accordance with Technical Specifications Section 6.8, "Maintenance that can affect the performance of safety-related equipment shall be ...performed in accordance with written procedures... appropriate to the circumstances...which conform to applicable codes,

standards, specifications, and criteria. Where appropriate sections of related vendor manuals...and maintenance instructions do not provide adequate instruction to assure the required quality of work, a suitably documented procedure shall be provided." Accordingly, the violation remains as cited.

(2.2) Part 2.2 of this violation pertained to the inadequacy of procedure F-OP-22. The procedural instructions for connecting the backup air bank did not address the isolation of a defective bank of starting air. In circumstances when the on-line air bank has been depleted, the on-line air bank isolation valve should be closed before the standby air bank isolation valve is opened to prevent losing air from the standby air bank to the depleted on-line air bank. This situation was not addressed in the subject procedure since it only addressed the circumstance of normal transfer of the air reservoirs. You disagreed with violation stating that it was not considered necessary for the procedure to address abnormal plant conditions based on the known skills and training of the operating staff.

The NRC staff disagrees with the NYPA position that the subject procedure provides sufficient guidance for personnel when presented with the abnormal situation since it only addresses normal transfer of the air reservoirs. Such guidance pre-conditions equipment operators to the necessary actions required to be taken when presented with the abnormal situation. The absence of such guidance for addressing abnormal situations does not ensure that all individuals would respond in the same manner when required. Accordingly, the violation remains as cited.

(2.4) Part 2.4 of this violation pertained to inadequacies in the diesel generator annunciator response procedures in that no specific directions were given to the operator to respond to engine and fuel oil abnormalities. You disagreed with the violation stating that the skills and training of the staff were sufficient to respond to the diesel generator abnormal conditions.

The NRC staff disagrees with the NYPA position that the present operator skills, as complemented by the subject annunciator response procedure, are sufficient to respond to abnormal conditions. Operator skills are primarily based on the training received and the use of operating procedures to enhance system knowledge. The lack of specific written guidance to assist the operator in determining the problem associated with a single common alarm does not constitute an adequate annunciator response procedure. As noted in the inspection report, the purpose of annunciator response procedures is to provide pre-thought operator guidance sufficiently detailed to preclude unnecessary delays while the operator searches for direction. Accordingly, the violation remains as cited.

- B. Your May 1990 letter disagreed with the violation in Inspection Report 50-333/90-13. The NOV was issued by the NRC because you provided the information in a Technical Specification change request which was not entirely accurate. The NOV is restated below.

"Section 50.9 of 10 CFR 50 states, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material aspects.

The New York Power Authority's December 15, 1989 application for an amendment to the FitzPatrick Technical Specification states the following:

- "Plant procedures have been revised to reflect the new limits for water and sediment and ash."
- "Plant procedures have been revised as appropriate to reflect the new limits for diesel fuel quality."

Contrary to the above, as of February 22, 1990 procedure PSP-7, "Diesel Fuel Oil Sampling and Analysis," which lists the oil quality limits as required by the technical specifications, had not been revised as stated."

You agreed with the finding that the supporting Technical Specification change request safety evaluation was not completely accurate. The Authority did not agree that a Severity Level IV Violation should have ensued. NYPA contends that 10 CFR 2, Appendix C, Supplement I describes and provides examples of severity Level IV violations and none of the specified examples appear to provide a clear basis for classification of the inaccurate statements as a Severity Level IV violation under Supplement I. The Authority concludes that the failure to revise the subject procedure at an earlier date should be reclassified as a Deviation under 10 CFR 2, Appendix C, Section V.H.(2) rather than a Violation.

Your December 1989 Technical Specification change request safety evaluation included statements of fact that "...procedures have been revised..." At the conclusion of the inspection, the NRC found that statements made in the submittal were not accurate as described in 10 CFR 50.9. Therefore, this condition was classified as a violation of NRC regulations.

10 CFR 2 Appendix C, "General Statement of Policy and Procedure for NRC Enforcement Actions" provides statements of policy. Section III of the policy, "Severity of Violations," states in part "While examples are provided in Supplements I through VIII for determining the appropriate Severity Level for violations in each of the eight activity areas, the examples are neither exhaustive nor controlling." Therefore, staff must exercise judgement concerning the appropriate Severity Level of a violation. Section D.1 of Supplement VII states that inaccurate information of more than minor significance, but not amounting to a Severity Level I, II, or III violation, can be classified as a Severity Level IV violation. In this instance, the submittal of inaccurate information is considered to be of more than minor significance. This was based on the fact that Technical Specification change request approvals (Amendments) are based in part on statements made in the licensee's submittal. The staff concluded that the safety significance of the violation warranted classification as a Severity Level IV Violation. Accordingly, the violation remains as cited. Your corrective actions will be reviewed during a subsequent NRC inspection.

We acknowledge your responses to the other identified violations and concerns described in inspection report 50-333/89-80. Your corrective actions were reviewed during a subsequent NRC inspection and our conclusions are documented in NRC inspection report 50-333/90-13.

Your cooperation with us in this matter is appreciated.

Sincerely,

Original Signed By:
Marvin W. Hodges

Marvin W. Hodges, Director
Division of Reactor Safety

cc w/encl:

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